

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 21133 of 2007(N)

PETITIONER:

N.G. SUSEELA BAI, AGED 66 YEARS
(FORMERLY ACCOUNTANT, CHATHURTHIAKARI SERVICE
CO-OP.BANK LTD.NO.1247), W/O.M.K.KRISHNAN NAIR,
SHYAM NIVAS, PAZHAVEEDU P.O., ALAPPUZHA-688 009.

BY ADV. SRI.P.A.ABDUL JABBAR

RESPONDENTS:

1. KERALA STATE CO-OPERATIVE EMPLOYEES
PENSION BOARD, REPRESENTED BY ITS SECRETARY,
P.B.NO.85, KALA NIVAS, TC.NO.27/156, 157,
CHINMAYA LANE, KUNNUMPURAM NEAR AYURVEDA COLLEGE,
THIRUVANANTHAPURAM.
2. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), ALAPPUZHA.
3. ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), ALAPPUZHA.
4. THE CHATHURTHIAKARI SERVICE CO-OPERATIVE
BANK LTD.NO.1247, REPRESENTED BY ITS SECRETARY,
CHATHURTHIAKARI P.O., PIN-688 511,ALAPPUZHA DIST.

BY ADV. SRI.P.V.MOHANAN (FOR R1)
GOVT. PLEADER, SRI.M.K.PUSHPALATHA (FOR R2 & R3)
SRI.P.C.SASIDHARAN (FOR R4)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT. P2: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT. P3: COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT. P4: COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT. P5: COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT. P6: COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE 4TH REPSONDENT.
- EXT. P7: COPY OF THE LETTER ISSUED BY THE 4TH REPSONDENT TO THE PETITIONER.
- EXT. P8: COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT WITH COPY TO THE OTHER RESPONDENTS.

/TRUE COPY/

P.A. TO JUDGE

JP

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.21133 OF 2007

Dated this the 22nd day of November, 2007

JUDGMENT

The petitioner was employed in the service of the 4th respondent. She was facing various disciplinary proceedings. She applied for leave and thereafter never returned. With the passage of time, some time in 1997, she requested the employer to let her go on voluntary retirement and to drop the disciplinary proceedings accordingly. The employer 4th respondent, in its wisdom, decided to let the petitioner voluntary retire from the date on which she was unauthorisedly absent, i.e., some time in 1993. Matters rested there.

2. In 2007, this writ petition is filed because the Pension Board had taken the stand that the petitioner is not entitled to the benefit of the pension scheme. The Pension Board relied on the pension scheme rules for two purposes. Firstly, an employee has to give the employer three months' notice to avail voluntary retirement. May be that this rule is more of directory in nature,

because, any complaint as to absence of proper notice period is to be raised, if at all, only by the employer. But then, more importantly, the Pension Board took the stand in terms of the said rules that an employee, against whom disciplinary proceedings are pending, shall not be permitted to go out on voluntary retirement.

3. The snapping of relationship between the employer and the employee on the basis of voluntary retirement can be regulated by the pension scheme rules only for the purpose as to whether pension is available under those rules and the scheme. Therefore, there is no jurisdictional error or legal infirmity in the employer 4th respondent granting voluntary retirement retrospectively from 1993, the date on which the petitioner unauthorisedly absented herself. But, on the ground that voluntary retirement during disciplinary proceedings cannot be recognised by the Pension Board, it also acted within jurisdiction to refuse pension under the scheme to the petitioner. All that apart, more than a decade has passed after the petitioner went

out of the service of the 4th respondent and it will be wholly impermissible to exercise writ jurisdiction and put the clock back.

In the result, the writ petition fails. The same is accordingly dismissed. If the Pension Board has concluded that the petitioner is not eligible to pension, it shall return to the employer 4th respondent, contribution that it has made on account of the petitioner, in accordance with law.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.